

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OPERATING ENGINEERS LOCAL 324 HEALTH CARE PLAN, *et al.*,

Plaintiffs,

Case No. 10-10645

Honorable BERNARD A. FRIEDMAN

v.

B&W SPECIALIZED DRILLING, INC., a foreign corporation, and THOMAS K. WITHEROW and HOLLY K. WITHEROW, jointly and severally,

Defendants.

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**JUDGMENT ESTABLISHING DEFENDANTS' LIABILITY
AND ORDERING AN AUDIT REGARDING DAMAGES**

This matter has come before the Court on Plaintiffs' Motion for Default Judgment pursuant to Fed.R.Civ.P.55(b)(2). The defendants' default was entered by the Court Clerk on March 18, 2010. Pursuant to Fed.R.Civ.P.8(d), this Court holds that all of the averments in plaintiffs' complaint are admitted as a result of the defendants' failure to file and serve a written response to the complaint. Accordingly, venue, jurisdiction, existence of a contract, breach of that contract, existence of a fiduciary duty, breach and defalcation of that fiduciary duty, and damages resulting from each breach are established. The sole remaining issue is the scope of damages.

The defendants are each hereby ORDERED to deliver to plaintiffs' auditors, within one week of the date of service of this judgment, all of the defendant company's books and records needed by plaintiffs' auditors to conduct an audit for the period from June 2009. Plaintiffs shall amend their motion regarding damages following publication of that audit.

s/Bernard A. Friedman

Honorable BERNARD A. FRIEDMAN
United States District Judge

Dated: April 22, 2010